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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Preliminary Results of the Changed Circumstances Review of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: On December 16, 2014, the Department of Commerce (Department) initiated a changed circumstance review (CCR) of the antidumping duty (AD) order on fresh garlic from the People's Republic of China (PRC) in response to a request from Jining Yongjia Trade Co., Ltd. (Yongjia), an exporter of fresh and peeled garlic from the People's Republic of China (PRC), on behalf of its garlic supplier, Jinxiang County Shanfu Frozen Co., Ltd. (Shanfu II).¹ Pursuant to section 751(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.216, the Department preliminarily determines that Shanfu II is not the successor-in-interest to the entity of the same name (Shanfu I). Interested parties are invited to comment on these preliminary results.

DATES: Effective date (Insert date of publication in the *Federal Register*.)

FOR FURTHER INFORMATION CONTACT: Hilary E. Sadler, Esq., AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department

¹ See *Fresh Garlic from the People's Republic of China: Initiation of Changed Circumstances Review of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.*, (December 22, 2014) (Yongjia CCR Initiation Notice).

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(202) 482-4340.

SUPPLEMENTARY INFORMATION:

Background

On November 16, 1994, the Department published the AD order on fresh garlic from the PRC in the *Federal Register*.² On October 8, 2014, Yongjia requested that the Department conduct a CCR pursuant to section 751(b)(1) of the Act and 19 CFR 351.216(b) to determine that Shanfu II, its garlic supplier, is the successor-in-interest to Shanfu I for purposes of the *Order*.³ On November 4, 2014, petitioners⁴ submitted comments opposing initiation of this review,⁵ contending that Shanfu II is not the successor-in-interest to Shanfu I based on Shanfu I's dissolution in June 2012.⁶

The Department initiated this CCR regarding Yongjia and Shanfu II on December 16, 2014.⁷ On February 6, 2015, the Department issued its initial CCR questionnaire to Yongjia.⁸ Yongjia timely responded to the Department's questionnaire.⁹ On March 23, 2015, the petitioners rebutted Yongjia's questionnaire response.¹⁰

² See *Antidumping Duty Order: Fresh Garlic from the People's Republic of China*, 59 FR 59209 (November 16, 1994) (*Order*).

³ See Letter from Yongjia, "Request for Changed Circumstances Review pursuant to 19 CFR § 251.216 on behalf of Jining Yongjia Trade Co., Ltd.," (October 8, 2014) (Yongjia CCR Request).

⁴ The petitioners are the Fresh Garlic Producers Association and its individual members: Christopher Ranch L.L.C., The Garlic Company, Valley Garlic, Inc., and Vessey and Company, Inc. Effective April 8, 2015, the lead petitioner is The Garlic Company.

⁵ See Letter from Petitioners, "Request for Changed Circumstances Review Under the Antidumping Order on Fresh Garlic from the People's Republic of China – Petitioners' Opposition to Initiation of Review," (November 4, 2014).

⁶ See Letter from the Petitioners, "Changed Circumstances Review Involving Status of Jinxiang County Shanfu Frozen Co., Ltd. Under Antidumping Order on Fresh Garlic from the People's Republic of China – Petitioners' Comments on Initial Re: Questionnaire Response," (March 23, 2015) (Petitioners' Questionnaire Rebuttal).

⁷ See *Yongjia CCR Initiation Notice*.

⁸ See Letter to Yongjia from Mark Hoadley, Program Manager, AD/CVD Operations, Office VII Enforcement and Compliance, "Changed Circumstances Review of Fresh Garlic from the People's Republic of China Initial Questionnaire of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.," (February 6, 2015) (Initial Questionnaire).

⁹ See Letter from Yongjia, "Response to Initial Questionnaire in Changed Circumstances Review filed on behalf of Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.," (February 27, 2015) (Yongjia Questionnaire Response).

¹⁰ See Petitioners' Questionnaire Rebuttal.

Scope of the Order

The merchandise covered by this order is all grades of garlic, whether whole or separated into constituent cloves. The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 0703.20.0000, 0703.20.0010, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 0703.20.0005, 2005.99.9700 and 0703.20.0015. Although the HTSUS subheadings are provided for convenience and customs purposes, the written product description is dispositive.

A complete description of the scope of the order is contained in the Preliminary Decision Memorandum.¹¹ The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and ACCESS is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/index.html>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Methodology

In accordance with section 751(b)(1) of the Act, we are conducting this changed circumstances review based upon the information contained in Yongjia's submissions.¹² In making a successor-in-interest determination, the Department typically examines several factors

¹¹ See "Decision Memorandum for the Preliminary Results of the Antidumping Duty Changed Circumstances Review of Fresh Garlic from the People's Republic of China: Jining Yongjia Trade Co., Ltd. and Jinxiang County Shanfu Frozen Co., Ltd.," dated concurrently and hereby adopted in this notice.

¹² See Yongjia CCR Request and Yongjia CCR Questionnaire Response.

including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base.¹³ While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor if the resulting operations of the successor are not materially dissimilar to that of its predecessor.¹⁴ Thus, if the record demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor.¹⁵ For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum.

Preliminary Results of the Changed Circumstances Review

Based on the evidence reviewed, we preliminarily determine that Shanfu II is not the successor-in-interest to Shanfu I. Specifically, we find that material changes occurred after Shanfu I dissolved and Shanfu II was registered. These were changes in management, business scope, production facilities, supplier relationships, and ownership/legal structure with respect to the production and sale of the subject merchandise.¹⁶ Thus, we preliminarily determine that Shanfu II does not operate as the same business entity as Shanfu I with respect to the subject merchandise. A list of topics discussed in the Preliminary Decision Memorandum appears in the Appendix to this notice.

If the Department upholds these preliminary results in the final results, Yongjia and Shanfu will be assigned the cash deposit rate currently assigned to the PRC-wide entity with

¹³ See, e.g., *Certain Activated Carbon From the People's Republic of China: Notice of Initiation of Changed Circumstances Review*, 74 FR 19934, 19935 (April 30, 2009).

¹⁴ See, e.g., *Notice of Initiation of Antidumping Duty Changed Circumstances Review: Certain Forged Stainless Steel Flanges from India*, 71 FR 327, 327 (January 4, 2006).

¹⁵ See, e.g., *Fresh and Chilled Atlantic Salmon From Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

¹⁶ See Preliminary Decision Memorandum at 4.

respect to the subject merchandise (*i.e.*, the \$4.71 per kilogram cash deposit rate currently assigned to the PRC-wide entity).¹⁷ If these preliminary results are adopted in the final results of this changed circumstances review, we will instruct U.S. Customs and Border Protection to suspend liquidation of entries of fresh garlic made by Shanfu II and exported by Yongjia, effective on the publication date of the final results, at the cash deposit rate assigned to the PRC-wide entity.

Public Comment

Interested parties may submit written comments by no later than 30 days after the date of publication of these preliminary results of review in the *Federal Register*.¹⁸ Rebuttals, limited to issues raised in the written comments, may be filed by no later than five days after the written comments are filed.¹⁹ Parties that submit written comments or rebuttals are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.²⁰ All briefs are to be filed electronically using ACCESS.²¹ An electronically filed document must be received successfully in its entirety by ACCESS by 5:00 p.m. Eastern Time on the day on which it is due.²²

Any interested party may submit a request for a hearing to the Assistant Secretary of Enforcement and Compliance using ACCESS within 30 days of publication of this notice in the *Federal Register*.²³ Hearing requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues

¹⁷ See *Fresh Garlic from the People's Republic of China: Final Results and Rescission, In Part, of Twelfth New Shipper Reviews*, 73 FR 56550 (September 29, 2008).

¹⁸ See 19 CFR 351.309(c)(1)(ii).

¹⁹ See 19 CFR 351.309(d)(1).

²⁰ See 19 CFR 351.309(c)(2) & (d)(2).

²¹ See 19 CFR 351.303(b) and (f).

²² See 19 CFR 351.303(b).

²³ See 19 CFR 351.310(c).

to be discussed.²⁴ Oral presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230.²⁵

Final Results of the Review

In accordance with 19 CFR 351.216(e), the Department intends to issue the final results of this changed circumstances review not later than 270 days after the date on which the review is initiated.

Notification to Parties

The Department issues and publishes these results in accordance with sections 751(b)(1) and 777(i) of the Act and 19 CFR 351.216 and 351.221.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Dated: June 23, 2015.

²⁴ *Id.*

²⁵ *See* 19 CFR 351.310(d).

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Preliminary Results of Changed Circumstances Review
 - Successor-in-Interest
 - 1. Changes in Ownership And Management
 - 2. Production Facilities and Equipment
 - 3. Supplier Relationships
 - 4. Customer Base
 - 5. Other Material Considerations
 - a. Dissolution
 - b. Change in Corporate Form
- V. Summary of Preliminary Findings
- VI. Recommendation

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